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International Court of Justice

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Official transcript of the International Military Tribunal in the Matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Irelan, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et a,., Defendants, sitting at Nurnberg, Germany, on 11 May 1046, 1000-1145 hours, Lord Justice Lawrence presiding.

DR. KRANZBUEHLER: Mr. President, I continue to submit documents concerning naval warfare.

My next document, on page 149 of the Document Book Number 3, is a statement of 26 September, 1939, by the First Lord of the Admiralty concerning the armament of British merchant vessels. In this declaration he announces that within a short time the entire British merchant fleet will be armed. Then he speaks about the training of the crews, and in the end he thanks his predecessors for the care with which they have prepared that work before the war. I submit it as document Doenitz 60, which is a collection of documents concerning naval warfare. It contains altogether 550 documents, and according to the request of the President, I have put special numbers on several documents.

NowI come to documents dealing with the treatment of ships which acted suspiciously and were for that reason attacked by the U-boats. The first document in that series is Doenitz 61, on page 150. It is a warning to neutral shipping against suspicious activities. That warning was sent in a note to all neutral delegations. At the end it points out that the ships should avoid any possibility of being confused with enemy warships or auxiliary cruisers, especially during the night. There is a warning against other suspicious conduct, for instance, changing of course, use of wireless at sight of German naval forces, zig-zagging course, dimming of lights, not stopping and the acceptance of enemy escort. That warning is repeated in the document Doenitz 62, which is on page 153, a renewed note of 19 October 1939 to the neutral governments.

Document Doenitz 63, is an example of how a neutral government,that is, the Danish Government, according to the German notes warned their merchant shipping against suspicious conduct, and it is found on page 154.

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I should like to remind you again that the first warning was given on 28 September.

My next document, Doenitz 64, shows that on 2 October the order was issued to the submarines to attack dimmed vessels in certain operational areas close to the British Coast. That order is significant in connection with the cross examination of yesterday where the question was posed whether an order of that kind had been issued at all or whether that point was transmitted to the commanders orally with the directive to falsify their logs.

I read the order of 2 October 1939 on page 155.

"Order by the SKL to the Front: Inasmuch as on the English and French coasts when encountering dimmed vessels it must be assumed that they are battleships or auxiliary battleships, full armed commitment is approved against dimmed vessels in the following territories:"

And then an area is designated around the British coast.

The excerpt right below from the War Diary of the Commander of U-boats West 1939 shows how this order was transmitted to the submarines.

The readiness of the British merchant shipping to aggression against German submarines is shown by the next document which I have to submit, and it will receive the number Doenitz 101 and is on page 155. It is also under Doenitz 60. That is a statement by the British Admiralty which I will read:

"The British Admiralty on 1 October circulated the following warning among the British merchant marine:

"Withing the last few days some German U-boats have been attacked by British merchant marine vessels. In this connection the German radio announces that the German U-boats have so far observed rules of international law in warning the merchant marine vessels before attacking them. Now, however, Germany wishes to retaliate by considering every British merchant marine vessel as a battleship.

"While the first mentioned fact is absolutely untrue, it may indicate an immediate change in the policy of the German submarine warfare. Be prepared to meet it. The Admiralty."

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On page 157 there is another report of the same day. The British Admiralty announces that German submarines are pursuing a new strategy. English boats are called upon to ram every German submarine.

The next document, Doenitz 65, shows the orders which have been issued as a result of the armament and armed resistance by merchant vessels. I will read the order of 4 October, which was issued by the SKL to the front.

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"Immediate full employment of all available weapons is permitted for submarines against merchant marine vessels of enemy nationality of which it can be noticed without a doubt that they are armed, or of which the fact that they are armed, based on conclusive evidence has been announced to the Command of Naval Warfare. As far as circumstances permit, measures are to be taken to save the crew after every possibility of danger for the submarine has been eliminated. Passenger ships which are not used to transport troops are now as beforenot to be attacked, even if they are armed."

The excerpt below shows how that order was transmitted to the submarines.

The experiences up to thatperiod of naval warfare are summarized in a document on page 159, which is an excerpt from a document of the Prosecution, GB-196, Standing War Order 171, Experiences and Observations:

I should only like to read from Figure 4, the first sentence:

"Tactics of Enemy Merchant Marine Vessels: The British Navy --"

THE PRESIDENT: Which document is that?

DR. KRANZBUEHLER: The document was issued before May, 1940, and I shall call on a witness to state the correct date. I assume it was in October, 1939:

"The British Navy has received the following instructions:

"(a) To fight every German submarine with all means, to ram it or attack it with water bombs, or if properly equipped, with depth charges," and there are other details given.

Experiences from the entire structure of the British Merchant Marine is summarized in Doenitz 66, at page 161. I shall read the order. It is an order of the 17th of October, 1939, at 1500 o'clock to the flag officers of submarines, who received the following order:

"Submarines are permitted immediate, full employment of weapons against allmerchant marine vessels, which are recognized beyond doubt as being of enemy nationality, as in any case the attempt to ram or otherwise active resistance is to be expected. Exceptions are still passenger boats of enemy nationality."

On page 162, as a part of theDocument, Doenitz 62, which has been

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submitted already, that is a note to the neutral countries of the 22nd of October, 193, and it summarizes the behaviour, the conduct of ships, which according to German opinion removed the peaceful character of a merchant ship.

I read from the last paragraph, the second sentence:

"According to previous experiences such tactics are certainly to be expected from English and French boats, particularly sailing in convoy, inadmissable use of wireless, dimmed out lights and beyond thatarmed resistance and attacks."

Then the German Government warns neutral nations against the use of enemy ships. The German orders have been issued on the basis of the experience of our U-boats.

The next document I have already submitted, Doenitz 67, on page 163, and it follows on the basis of a report of the British Admirality, on page 163. I should like to emphasize that the orders for merchant shipping are published in the hand book for the defense of merchant ships of 1938, that is, they were issued before the war.

Now I come to several documents concerning the treatment of passenger ships. They are essential in connection with the Athenia case, since the Athenia was a passenger ship.

The Document Doenitz 68, presents some material about the treatment of passenger ships. First is an order on the 4th of September, 1939, which I should like to read:

"On the Fuehrer's orders no enemy action against passenger ships for the time being even when in convoy."

The next excerpt from the same page contains a report about the use of passenger ships as troop transports.

Then I read an excerpt from the Directives about the war against merchant shipping, October to November, 1939, p. 3:

"As the enemy passenger lines are extensively used for transport service, therefore, any further sparing of those ships, in so far as they are convoyed could not be justified any more;"the following was ordered on the 29th of October: I read the order which is on the bottom of the page:

"Full use of armament against passenger lines if found in enemy convoys."

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"Passengersliners in enemy convoys are to be subjected to immediate full use of armament by U-boats."

The next document, Doenitz 169 on page 70, shows that the German press warning had been issued during November and December against the use of armed passenger ships by publication of a list of these ships.

The next document is Doenitz 70, on page 171. It is an order of the 17th of November 1939, issued from S.K.L. to flag officers of U-boats, and I read the order:

"Immediate and full use of weapons against all clearly recognized enemy passenger ships, whose armament is detected or is already known, is permitter to U-boats."

That was about six weeks later after the attack upon other armed ships was permitted.

Doenitz 71 shows that sa late as the 23rd of February 1940, the U-boats we permitted also to attack passenger ships, that was four months later, after it h been permitted against other ships.

Now I come to the document of the Prosecution, GB-224, that is in volume 4 of my document book. I should like to emphasize again that this document is designed to encourage Grand Admiral Raeder and was termed by the Prosecution a cynical denial of international law. I should like to point out, and first, that according to the heading, it is concerned with considerations of the Skl on the Possibilities of intensifying Economic Warfare against England.

I should like to read a few paragraphs. I spoke about them, and which show a very thorough consideration of International Law has been made.

The first paragraph:

"The Fuehrer's proposal of reestablishing a just and honorable peace and setting anew the political order in Middle Europe has been rejected. The enemy powers want war with Germany's destruction as its goal. In the fight in which Germany is now forced to defend her existence and right, Germany must employ her weapons with ruthless security under full respect of the rules of soldierly conduct in combat."

Then there follows a paragraph in which it is stated that the enemy also uses all possibility of ruthlessness.

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On the next page 200, there are a few sentences of principal importance which I should like to read:

From the paragraph, Military Demands. I read from the third sentence:

"It remains desirable to base the military measures taken, on the existin International Law; however, military measures recognized as being necessary must if successes decisive for the war can be expected, be carried out even in case the valid International Law cannot be applied in that instance. Therefore, as a matter of principle, the military weapon which could effectively break the enemy power of resistance, must be based on legal maxims even if in doing so new rules of naval warfare are created.

"After weighing the political, military and economic consequences in the frame work of the entire warfare, the High Command must decide which military procedure and legal rule of warfare are to be applied."

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Then there are a number of excerpts which show how S.L.L. was examining the legal situation; that is to say the present legal situation, the legal situation in case of a siege of England and in case of a blockade against England. The end, which is on page 203, emphasizes the political character of the final decision. I shall read it: "The decision to intensify economic warfare and the timing of the change to the most intensified and thus final form of naval warfare in this war is of far reaching political importance. It can be made only by the highest war command, which will weigh the military, political and economic requirements against each other." I should like to supplement that this document is of the 15th October, 1939. At the end of November, 1939, the Naval War Command took the consequent --

THE PRESIDENT: What day in October? The 15th of October?

DR. KRANZBUEHLER: 15th October, Mr. President. It is a memorandum of the 15th October which has been submitted.

THE PRESIDENT: I thought you were dealing with Document GB-224. That is the one you have been reading just now.

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: Headed on our page 199, 3rd of November, 1939.

DR. KRANZBUEHLER: Yes, Mr. President, on the 3rd of November. The 3rd of November is the date at which the memorandum was distributed to the commander of the armed forces and the other commands. I am just told now that in the English text, above the word "Memorandum" the date is not printed. In the original it says, right above the word "Memorandum", "Berlin, 15 October, 1939.

THE PRESIDENT: Very well.

DR. KRANZBUEHLER: I have already submitted thedocument Doenitz 73, which is on page 206, in which neutrals are warned against the entry into the zone, which is the American combat zone declared by President Roosevelt. The German point of view, that the entry into this zone constitutes an endangering of all neutrals by their own action, is expressed also in Document Doenitz 103 on page 210. It is an interview which Grand Admiral Raeder gave to a representative of the National Broadcasting Company, New York, on 4 March, 1940 I should like to read several sentences from that document. In the second

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paragraph Grand Admiral Raeder points out what dangers exist for neutral ships if they act suspiciously and can be confused with enemy ships, enemy warships. The last sentence of that paragraph reads: "The German standpoint may be expressed tersely by the formula: Whoever depends on armed assistance must be prepared for armed attack." I shall read the two last paragraphs: "In discussing the possibility of frequent differences of opinion, the commander in chief of the Navy spoke of President Roosevelt's order prohibiting American shipping in the dangerous zones around England. He said the following: 'This prohibition is the best proof against England's practice of forcing neutrals to sail through these zones without being able to guarantee their security. Germany can only advise all neutrals to imitate the policy of your President.' Question: 'Thus, according to the present state of affairs, there is no safety for neutral shipping in the war-endangered zones?' Answer: 'Probably not, so long as England adheres to her methods...."

By the collapse of France the entire U.S.A. combat zone was declared German blockade area. That can be seen from the documents Doenitz 104 on page 212. I read from the middle of the long paragraph: "The entire sea area around England has thus become a theater of war operations. Every ship sailing this zone runs the risk of being destroyed not only by mines but also by other fighting means ---

THE PRESIDENT: Dr. Kranzbuehler, did you call that exhibit Doenitz 60 or--

DR. KRANZBUEHLER: That was originally also one of the documents from Doenitz 60, which I have given a new number now. The new number now is Doenitz 104.

THE PRESIDENT: Thank you.

DR. KRANZBUEHLER: "Every ship sailing this zone runs the risk of being destroyed not only by mines but also by other fighting means. For that reason the German Government warns again and most urgently against sailing in the endangered zone." At the end of it: "Note: The German Government refuses to assume any responsibility for damages or losses in these areas."

The next document, on page 214, with the new exhibit number Doenitz 105, I have included an official statement at the occasion of the proclamation of the total blockade of 17 August 1940. I should like to mention it only.

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I come now to several documents which deal with the treatment of neutrals outside of these danger zones. As the first document I point to page 226. That is an excerpt of a document from the prosecution GB-196. It is a permanent order from the Flag Officer U-boats which was also issued before May, 1940. I read the first sentences: "Not to be sunk are: (a) all ships readily recognized as neutrals so long as they do not (1) move in an enemy convoy, (2) move into a declared danger zone."

The next document, Doenitz 760, page 227, shows the concern of the Naval War Command that the neutrals should really be recognizable. I read the first sentences of the entry of 10 January, 1942: "The Naval War Command has asked the Foreign Office because of the new extension of the war to point out once more to the neutral, seafaring nations with the exception of Sweden the necessity of marking their ships carefully in order to avoid having their ships mistaken for enemy ships."

The next document, Doenitz 770, on page 228, is an entry of 24 June, 1942, from the War Diary of the Flag Officer U-boats: "All commanders are once more exhaustively instructed as to their conduct towards neutrals."

Doenitz 78, I have already submitted -- excuse me, it has not been submitted. Doenitz 78, on page 229, contains examples of the consideration which the Flag Officer U-boats took for neutrals. The entry of 23 November, 1942, shows that a submarine received an order to leave the ocean area entirely because there was strong neutral traffic in that area. The second entry of December, 1942, specifies that a Portugese naval tanker had to be treated according to directives; that is to say, should not be bothered.

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On page 230 there is a document which I have already mentioned. It informs us about court martial proceedings against a commanding officer who had torpedoed a neutral by mistake.

The next document is Doenitz 79 on page 231. That is the order which until the end of the war was valid for the treatment of neutrals. I do not think I have to read it. It points out again the discernibility of neutral ships and points to the agreements about shipping which have been made with a number of countries, such as Spain, Portugal, Sweden and Switzerland.

THE PRESIDENT: What is the correct date on it?

DR. KRANZBUEHLER: August 1, 1944, Mr. President. The original date is the 1st of April, 1943. The order was then reissued on the 1st of August, 1944, on the basis of the correction which had become necessary by shipping agreements.

So far I have dealt with the general principles which have been attacked by the document of the Prosecution, GB 191 and GB 224. Now I should like to submit several documents concerning details of the document of the Prosecution GB 191.

Mention is made here of a speech by Adolf Hitler, which ends with the words:

"Every ship whether with or without escort which comes in front of our torpedo tubes will be torpedoed."

I now wish to present Doenitz 80. In Doenitz 80 there is an excerpt from that speech, on page 232, which shows in that connection that the statement of the Fuehrer was only concerned with ships which are bringing war materials to England.

I then come to two examples which have been mentioned in GB 191 as characteristic examples for German naval warfare. The first is the case of the Danish Steamer "Vendia." The document of the Prosecution says:

"On the 30th of September, 1939, the first sinking of a neutral ship by a submarine took place without a warning signal having been given. On that occasion people were killed. The ship was the Danish steamer 'Vendia'."

I submit that as Doenitz Exhibit 83 on page 235. That is the War

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Diary of the Submarine U-3, which had sunk the "Vendia." I should like to read parts of it. I begin with the second sentence.

"The steamer turns away gradually and increases speed. The boat comes up only very slowly. Obvious attempt to escape.

"The steamer can be clearly recognized as the Danish steamer 'Vendia.' Boat reduces speed and prepares the machine-gun. Several warning shots are fired across the steamer's bow. The steamer stops very slowly; nothing happens for a while. Then some more shots are fired. The 'Vendia' lies into the wind. For ten minutes nothing can be recognized on deck, which could remove the suspicion of a possible intentional resistance. At 11.24 hours I suddenly see waves in front of the steamer and screw movements. The steamer turns sharply toward the boat. My opinion that this is an attempt at ramming is shared by the officer on watch and the first mate. Consequently I turn with the steamer. A torpedo is fired 30 seconds later; point of aim, bow; point of impact, extreme rear of the stern. The stern is torn off and goes down. The front part is still afloat.

"At the risk of the life of the crew and the boat (heavy sea and numerous floating pieces of wreckage) six men of the Danish crew are rescued, among them the captain and helmsman. Other survivors cannot be recognized. During this time the Danish steamer "Sawa" approaches and is stopped. It is requested to send the papers in a boat. It is carrying a mixed cargo from Amsterdam to Copenhagen. The six persons rescued are transferred to the steamer for repatriation.

"After the crew of the steamer had been transferred it was learned that the engineer of the steamer had told Blank that the captain had had the intention of ramming the submarine."

The document on page 237, an excerpt from the document of the Prosecution GB 82, shows that the case "Vendia" was the subject of a protest from the German Government to the Danish Government.

I shall deal now with the sinking of the "City of Benares" on the 18 September, 1940, and therefore I should like to read several sentences from the document of the Prosecution because it characterizes the probative

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value of the entire document GB 191. I read from the British document book page 23, beginning from the passage where the Prosecution stopped reading. The Tribunal will remember that the"City of Benares"had children on board. It says here:

"The captain of the U-boat presumably did notknow that there were children on board the 'City of Benares' when he fired the torpedoes. Perhaps he did not even know the name of the ship, although there is strong evidence that he must have been dogging her for several hours before torpedoing her. What he must have known, however, was that this was a large merchant ship, probably with civilian passengers on board, certainly with a crew of merchant seamen. He knew the state of the weather, and he knew that they were six hundred miles from land and yet he followed them outside the blockade area and deliberately abstained from firing his torpedo until after nightfall when the chances of rescue would be enormously diminished."

The next document I submit is Doenitz 84, on page 238, a War Diary of the U-boat 48, which sunk the "Cityeof Benares." I read the entry of the 17th of September, 1940.

"Time 1002. Convoy sighted. Course about 240 degrees. Speed seven nautical miles. Contact maintained, since underwater attack is no longer possible because of the heavy swell. No escort can be seen with the convoy."

Then the entry of the 18th of September, 1940, describes a torpedo fired against a ship of that convoy, the "City of Benares."

A few minutes later, 0007 hours, the submarine attacked a second ship of that convoy, the British steamer "Marina." Both ships send wireless messages. Twenty minutes later the submarine has an artillery combat with a tanker from that convoy. That is a true story of the "City of Benares."

On page 240 I have copied the document of the Prosecution, GB192, once more concerning the sinking of "Sheaf Mead." I should like to emphasize that that ship was considerably armed and that it probably was no merchant vessel but a submarine trap.

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In the document of the Prosecution, GB-195, which was already treated during the cross-examination yesterday, an order by the Fuehrer of July, 1941, was submitted concerning the attack against United States merchant vessels in the blockade zone around England. The Prosecution says on account of this document that Doenitz had conducted a cynical and opportunistic warfare against the neutrals.

My next document is Doenitz 86. On page 143 --

THE PRESIDENTL Was it not 243?

DR. KRANZBUEHLER: 243, Mr. President. I beg your pardon. It deals with the attampts to avoid a conflict with the United States. I read the entry of 5 March 1940 from the War Diary of the Naval War Command, SKL:

"The Naval Forces are given orders, with regard to the conduct of trade warware, that U.S. ships should neither be stopped nor seized nor sunk. The reason was the assurance given by the Commander-in-Chief to the American Naval Attache, whom he received on 20 February, that German submarines were under orders not to stop any American ships. All difficulties that could arise from trade warfare between the U.S.A. and Germany are thereby to be eliminated from the start."

This order means that such measures were renounced.

The next document, Doenitz 87, on page 244, shows the practical recognition of the American neutral zone, the zone of neutrality. I quote:

"The following wireless is directed to all ships at sea: American neutrality zone from now on to be observed south of 20 North only at a distance of 300 nautical miles from the coast. For reasons of foreign policy, the hitherto existing limitation will for the time being continue to be observed north of the above-mentioned line."

That means full recognition of the neutral zone.

My next document, Doenitz 88, shows the attitude of President Roosevelt concerning the question of neutrality toward Germany in that war. It is an excerpt from the speech of the 11th of September, 1941, which is well known:

"Hitler knows that he must win mastery of the seas if he wants to win mastery of the world. He knows that he must first tear down the bridge of ship;

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which we are building over the Atlantic, over which we continuously transport the war material that will help destroy our patrols on the sea and in the air."

I should like to point briefly to the opinion stated in the document, GB-19 that the crews of merchant ships had been civilians and non-combatants. On page 254 I have copied the part of the document, Doenitz 67, which I have already submitted. It is an excerpt from the confidential order from the Admiralty and it deals with the training -- the gunnery training -- of civilian crews of merchant ships. I should like to point to the first page of these orders which say that in general there should be only one navy man at a gun and all other men should be taken from the crew of the ship. I read from the paragraph, under "Training":

"In addition to the gun pointer and the men specially trained for operating guns, further men are needed to complete the operating crew -- depending on the size of the gun, five to seven men -- and for bringing of the ammunition from the magazine."

What follows are directives concerning training in port and about the drill of the crew.

The next document, with a new number, Doenitz 106, is a circular decree of the French Minister for the Merchant Marine, dated 11 November 1939, concerning the creation of an insignia for crew members of French merchant ships who can be mobilized. Page 256. I should like to emphasize that this decree was signed by the Director, the head of the Military Cabinet, The Rear Admiral, and the character of that order can be seen best from the paragraph before last:

"This armband, which is intended to be worn on civilian clothes, will consist of an armband of blue material with a vertical anchor of red wool. This armband can be worn only in France or in the French colonies. In any event, the men who have been provided with it must not wear it when they are in foreign territories.

I come now to several documents dealing with the question of the rescue of survivors. These documents can be found in Document Books 1 and 2 --

THE PRESIDENT: Dr. Kranzbuehler, don't you think it would be sufficient if you were to refer to these documents, give us the numbers of the ones, without reading from

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them? They all deal, as you say, with rescue.

DR. KRANZBUEHLER: I believe I can do this in the case of most of them.

On page 9 there is the Hague Convention, concerning the application of the GenevaConvention to naval warfare. On page 10 is a document, Doenitz 6, the order of the 4th of October, 1939, concerning the sinking of armed merchantmen, which clarifies the order I have already submitted, to rescue wherever possible without endangering their own ship.

Doenitz 90, page 11, gives examples of exaggerated rescue measures by German submarines which let go of enemy ships on that occasion.

Doenitz 10 deals with the same subject and gives another example.

The text of statements by commanding officers in Doenitz 13 can be found on pages 19 to 26. I should like to put it in connection with the War Order 145, which is the document of the Prosecution, GB-196. These statements contain numerous examples out of all the years of war concerning rescue measures on the part of German submarines. One of these statements also is supplemented by photographs -- on page 21, which are included in the original. The contents of these statements are confirmed by Document Doenitz 140, page 27, where a commanding officer of a U-boat reports about rescue measures in the War Diary, and at the end there is the sentence "Taking on board of English aviators agreed to," signed by the Flag Officer, U-boats.

The next document, Doenitz 15, again is an excerpt from the War Diary, giving an example of rescue measures after a battle with a convoy, October, 1941. It is on page 28.

The next are two documents concerning the Laconia order, and the Tribunal has permitted me to use the standing war orders 511 and 513, in the cross-examination of Moehle. They deal with the capture of captains and chief engineers. I submit them as Doenitz 24 and 25, and they can be found on page 46 and 47. I should like to emphasize that in both orders it is said explicitly that capture should only be effected as far as it is possible without endangering the boats.

In the document, Doenitz 24, it is explained that the British Admiralt on its part has issued orders to prevent the capture of the British captains by German submarines.

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The next excerpt on page 48 presents an example of the fact that this British order was carried out and that a U-boat is searching in vain among the life-boats for the captain.

THE PRESIDENT: Dr. Kranzbuehler, could you inform the Tribunal what paragraph 2 on page 46 refers to and means?

DR. KRANSBUEHIER: Yes. The paragraph points to the standing war order, No. 10; that is the order in which it is stated which neutral ships can be sunk.

THE PRESIDENT: Would it mean that those officers have to be sunk with the ship, or what?

DR. KRANZBUEHLER: No, Mr. President. That means that captains and ships' officers of neutral ships could be left in the lifeboats and should not be taken from the life-boats; that it was in fact much safer on the life-boat than on the submarine, as seen from the English order which tells the captains to remain in the life-boats and to hide from the U-boats.

THE PRESIDENT: What if they haven't got life-boats?

DR. KRANZBUEHIER: I believe, Mr. President, that that case has not been ruled on. I know no case where a ship did not have life-boats, particularly in 1943, which is the year when this order originates. That ship not only had life-boats but automatically inflating floats.

Figure 2 only refers to the question of capture of neutral captains.

May I continue, Mr. President?

THE PRESIDENT: Yes, you may.

DR.KRANZBUEHLER : A number of examples for the fact that captains were rescued under these orders are contained in the statements of the commanders, which can be found on pages 22, 25, and 26, under Exhibit No. Doenitz 13.

I now come to the case of the submarine U-386, which has played a very imprtant part in Captain Moehle's statement. The Tribunal will no doubt remember that this case was the decisive reason for the interpretation which Moehle gave to the Laconia order. I submit Exhibit No. Doenitz 26, with reference to this case, which is the affidavit from Captain Witt. Ishould like to quote a few paragraphs from that.

THE PRESIDENT : What page ?

DR. KRANSBULHLER : On page 5o, Mr. President.

" In November, 1943, in the course of my official duty in the staff of the Commander in Chief of the submarines, I had to interview Naval Lieutenant Albrecht, commander of the submarine U-386, concerning his experiences during his action just terminated. Albrecht reported that at the height of Cape Finisterre he had seen by day a rubber boat with shipwrecked British aviators in the Gulf of Biscay. He did not take rescue measures he was on the way to a convoy in process of being formed. He could only have reached his position by continuing without a stop. Besides he was afraid-- "

THE PRESIDENT : Dr. Kranzbuehler, is it necessary to go into the details of each partcular case ? I mean, they all depend upon their own particular circumstances. You need not to read the documents very carefully. It is not necessary at this stage of the case.

DR. KRANSBULHLER : Very well, Mr. President, I shall only report. The affidavit briefly states that the commander hat been enlightened regarding the fact that he should have brought the aviators back. That is, in fact, the contrary of what Moehle has said in this courtroom.

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The correctness of Captain Witt's statements are confirmed by the next document, Doenitz 27. It's the war diary, the log of the submarine. It contains the views of the commander of submarines. The dicisions disapproved of the fact that the Englishmen were not taken aboard. The fact that Admiral Doenitz attitude regarding rescues was not aiming at cruelties, but that it was based on military considerations, is shown in the following document, Doenitz ExhibitNo. 28. It is on page 53. He is consider rescuing of personnel and he comes to the conclusion that from military consideration such a rescue may have to be refrained from.

The following document, which is Doenitz No. 29, deals with the statement by witness Heisig. It is on page 54 and the following. To start with, it contains an affidavit from the Adjutant, Captain Lieutenant Furhmann, which deals with general thoughts, which was the basis of Admiral Doenitz' lectures and speaches. At the end he is emphasizing that never was he approached by young officers at the end of any lectures and speeches by Grand Admiral Doenitz, where they might have expressed any doubts regarding treatment of shipwrecked persons.

On page 56 you will find a statement from Naval Lieutenant Kress, who was present at the same lecture as Heisig, was, and he is saying that,

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neither literally nor by hinting, did Admiral Doenitz order the killing of survivors. This, in turn, is confirmed by the statement of Lieutenant Steinhoff on page 59.

The considerations which were the basis of the thoughts of the naval commander at the time regarding fights against Jews becomes clear from the following document, which is Doenitz No. 30. It is on pages 60 and 61. There, again, appears no word regarding the killing of survivors. Incidentally it is a record of a conference with the Fuehrer on the 28th of September, 1942, where Admiral Raeder and Admiral Doenitz were present.

The Tribunal will remember the document GB-200, which describes rescue ships as aims to be attained, if possible. In the same document there is contained a statement saying that they have the same significance as submarine traps. For that reason I have printed a document on page 63, which is standing war order No. 173, dated the 2nd of May, 1940; and in that order it is stated that "In accordance with the instructions of the British Admiralty U-boat traps should be made use of whenever possible in convoys."

The fact that the treatment of rescue ships has nothing to do with the respect paid to hospital ships is proved by the document Doenitz No. 34, which is in document book No.2, on page 67. It is the last standing order referring to hospital ships, dated August the 1st, 1944. It begins with the words: "Hospital ships must not be sunk."

My next document, Doenitz No. 35, is meant to show that the naval command staff, with reference to hospital ships, went beyond the rules of International Law. The entry of July 17, 1941, proves that the Soviet Government in turn has refused to adhere to the hospital ship agreement, referring in that connection to violations by Germany. According to paragraph 18 of that agreement, that would mean that the significance of that agreement would cease for all signatories.

Document Doenitz 36, on pages 69 and the following, I am quoting the only example which we know of to the effect that a U-boat commander did in fact fire at means of rescue. This is the interrogation or examination of Captain Eck, which was carried out on the 21st of November, 1945, by order of

this Tribunal. That was ten days before he was shot; According to the wishes of the Tribunal, I shall only summarize. After sinking of the Greek steamer "Peleus", Eck tried to fire at the lifeboats by trying to sink them; and the reason which he quotes is that by this action he would do away with debris, wishing to avoid that the enemy air force might pick him up in that manner. He states that he had the Laconia order aboard, but that this order hadn't had the slightest influence upon his decision. In fact, he hadn't even thought of it. Moehle instructed him, but said nothing in that connection about the killing of rescued personnel; and Eck says he knows nothing about the example of U-386. At the end of Eck's examination he states that he expected that his actions would be approved of by Admiral Doenitz. Furthermore, during cross examination yesterday, the question was once more touched upon whether Admiral Doenitz--

THE PRESIDENT: We will adjourn now for a few minutes -- only for a short time.

DR. KRANZBUEHLER: Very well.

(A recess was taken).

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THE PRESIDENT: Dr. Kranzbuehler, the Tribunal, as you know, was going to deal with the applications for documents and witnesses, but if you could finish your documents in a short time, they would like to go on with that and get them finished, if you can.

DR. KRANZBUEHLER: Mr. President, I believe that even if I keep up this present speed, I shall need about one hour. I should like to ask you, therefore, that I may continue Monday morning.

THE PRESIDENT: Well, Dr. Kranzbuehler, if you think it will be anything like as long as that, of course we must put it off until Monday morning, but the Tribunal does hope that you won't take anything like so long as that, because going into detail on these documents doesn't really help the Tribunal. They have all got to be gone into again in great detail, both in your speech and in furthe consideration by the Tribunal.

DR. KRANZBUEHLER: I shall confirm myself only to bringing out the connections, Mr. President, but in spite of that, it would be better if I did so Monday morning.

THE PRESIDENT: Very well, yes. Then the Tribunal will now deal with the applications.

Yes, Sir David.

SIR DAVID MAXWELL-FYFE: If your Lordship pleases, the first application is on behalf of the defendant von Schirach, who asks for one Hans Marsilek as a witness for cross examination. The Prosecution have already introduced an affidavit from this man, and they have no objection to his being called for cross examination.

My Lord, the second application on behalf of the defendant von Schirach is in respect of one Hoffmann. The Defense desires to administer interrogatories to Hoffmann in lieu of calling Hoffmann, who has already been allowed as a witness. There is no objection to that.

My Lord, the next matter is an application by Dr. Seidl on behalf of the defendant Hess, and it is a request for five documents relating to the German-Soviet agreements in August and September 1939. There is also a request for the calling of Ambassador Gauss as a witness in connection with the above. But the position with regard to previous applications is somewhat lengthy, and without going into detail, I tell the Tribunal that this matter has already been before them on six occasions. I have the details if the Tribunal would like them.

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THE PRESIDENT: No, because the Tribunal made an order, did they not, that these documents were to be translated?

SIR DAVID MAXWELL FYFE: Yes, My Lord.

THE PRESIDENT: And that they would then be considered by the Tribunal.

SIR DAVID MAXWELL-FYFE: That is so, my Lord. The Tribunal made an order for them to be translated on the 25th of March, and, my Lord, if I may just remind your Lordship of the bare facts, on the 28th of March Fraulein Blank, the private secretary of the defendant von Ribbentrop, was asked about the agreement Your Lordship may remember that my friend General Rudenko objected, but the Tribunal ruled that the questions were admissible, and the witness said she knew of the existence of the secret pact, but gave no details.

Then, on the first of April, in the course of Dr. Seidl's cross examination of the defendant von Ribbentrop, the Gauss affidavit was read, and on the third of April, Dr. Seidl applied for Hilger and Weizacker to be called as witnesses on this point, and on the 15th of April Dr.Seidl applied for Ambassador Gauss to be called.

Now, my Lord, it was discussed before the Tribunal on the 17th of April, when I said that in view of the Tribunal's previous ruling I could not contest the question of the agreement, but I objected to the witnesses. General Rudenko I think, stated that he had submitted written objections, and the Tribunal said they would consider the matter.

Now, my Lord, the position today appears to be, taking the five documents, that the affidavit of Dr. Gauss is already in evidence. My Lord, that is the first affidavit. The second affidavit of Dr. Gauss is notin evidence. With regard to the non-aggression pact between Germany and the Soviet Union, that is already in evidence. As to the secret supplementary protocol appended to the non-aggression pact between Germany and the Soviet Union, the substance is already in evidence. It was given in the Gauss affidavit.

Then, my Lord, we have the German-Soviet Frontier and Friendship Pact of the 28th September 1939, and the secret supplementary protocol to that pact. The Prosecution submit that these documents have no relevance to the defense of the defendant Hess, and they cannot see any reason for their being wanted. If necessary, my Soviet colleague can deal further with the matter, but that is the general position. We also submit that the second affidavit of Ambassador Gauss is unnecessary in view of his previous affidavit, and without stating

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them again, I refer to and repeat my objections to witnesses to the discussions anterior to the conclusion of the agreement.

It is submitted that this is really an irrelevant matter, and it is unnecessary to occupy the time of the Tribunal regarding it.

THE PRESIDENT: Sir David, the Tribunal, as I have said, is going to consider this matter. They haven't yet had an opportunity to consider these documents, but I should like to ask you whether there is any reason why Ambassador Gauss should be called as a witness.

SIR DAVID MAXWELL FYFE: None at all, myLord.

THE PRESIDENT: He has already stated the substance of these documents, as has the defendant Ribbentrop, and if the documents are now produced, supposing that the Tribunal took the view that they ought to be admitted, it would be entirely irrelevant to call Gauss as a witness.

SIR DAVID MAXWELL-FYFE: In my submission that is so, my Lord.

THE PRESIDENT: Well , I think the Tribunal had better consider these documents, as they stated in their order they were going to do when the documents had been produced.

SIR DAVID MAXWELL FYFE: If your Lordship pleases.

Now, my Lord, the next application is on behalf of the defendant Funk, and he requests permission to read the affidavit of the witness Kalus. The permission was previously granted to the defendant Funk to submit an interrogatory to Kalus, which has been done, and the interrogatory has already been introduced in evidence. The affidavit now in question has been received and supplements the interrogatory, and the Prosecution haveno objection.

The next application is on behalf of the defendant Streicher, and he desires to call the witness Gassner as a witness, and he is desired to speak as to the Stuermer and the size of the circulation and the profits. The Prosecution submits that it is unnecessary to call a witness as to the form of the Stuermer after 1933. A representative number of copies of the newspaper are before the Tribunal and the form of the newspaper can be seen from them.

On the second point, both the defendant Streicher and the witness Heimer have given evidence as to the Stuermer's circulation, and it is respectfully submitted that the takings of the Stuermer and the use to which they were put are irrelevant.

Then, my Lord, the next application, on behalf of the defendant Sauckel, is for one Biedermann as a witness instead of a witness allowed previously who cannot be found. The Prosecution have no objection to that, and they have no objection to the documents that are asked for, so with the approval of the Tribunal I shan't go through them in detail.

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THE PRESIDENT: Sir David, we should like to know when you think the most appropriate time would be to hear the evidence on behalf of those defendants whose cases have already been presented, whether to hear it at the end of all the evidence or to hear it earlier?

SIR DAVID MAXWELL FYFFE: My Lord, I should have thought that it was better to hear it earlier if the Tribunal could put aside a Saturday morning for it, or something of that kind, before the cases of the various defendants have got too far into the backgraound.

THE PRESIDENT: We will consider that and let you know.

SIR DAVID MAXWELL FYFFE: If your Lordship pleases. Now, My Lord, the next application is in behalf of the defendant Seyss-Inquart and he asks for an interrogatory to be submitted to Dr. Stuckhardt (?) to supplement the testimony of the witness Lammers. The prosecution have no objection to such and interrogatory They ask the Tribunal to let them reserve the right to put in a cross- interrogatory. The , next, the defendant Frick asks for Dr. Konrad (?) as a witness on the question of Church persecution, and the prosecution suggests that an interrogatory would be sufficient on this point and I think there is a little confusion here. I think that what is desired is for an affidavit. The original application says: "Contrary to the charge to the effect that the defendant participated in the persecution of the churches, an affidavit by the witness is to establish that Frick strongly defended church interests." So the only question is between an affidavit and an interrogatory, not between an oral witness and an interrogatory. Then if I might leave the next one it is the application on behalf of the defendant Goering. My friend, Colonel Pokrovsky is going to deal with that. I pass to the application of the defendant Hess and Frank, That is Dr. Seidl's application: and if i might just read what is stated in the General Secretary's note, it is official information from the ministry of War of the United States of America, or another Ministerial Service official of the Office of Strategic Services. It is stated that such a report is desired to show that the witness Gisevius had perjured himself on the witness stand and that they desire to show this to attack his credibility. It is alleged that the perjuring consits of his denial of receiving any favors from any power at war with Germany, which is supposed to be at variance with his statement that he had friendly and politic l relations with the American Secret Service and with some

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subsequently published reports. Confirmation of these two factors, alleged to be at variance with his prior statements, is sought by request on official statement; and they ask for the United States Secretary of War, Mr. Patterson, as a witness for the essential points in case the Tribunal does not consider an official report admissible or sufficient or the United States Ministry of War refuses the information.

Now, My Lord. I deal with this matter simply as a question of jurisprudence on which I submit that the English view is a sound one and should be followed by this Tribunal. The law of England, as I understand it, is that when you cross examine a witness to credit, you are bound by his answers. There is only one exception from that which is, in my recollection, contained in a note in Roscoe's Criminal Evidence, that when you have cross examined a witness to credit, you may call a witness that is to say, that knowing the general reputation of the witness who has been cross examined to credit, on that general reputation and only on his general reputation, the witness, one would not believe him on it. That is the only exception that I know in English Law.

THE PRESIDENT: And, of course, if he is cross examined as to a crime or a misdemeanor, he may be contradicted.

SIR DAVID MAXWELL FYFFE: Certainly, your Lordship is quite right. I should have put that as an exception; that if he is cross-examined as to a specific conviction, then the conviction may be proved. I am very grateful to your Lordship. But, my Lord, what is not permissible in English jurisprudence is that when a witness has been cross examined

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to credit on particular facts other than a conviction by the state, evidence may be adduced as to these particular facts. I should submit that the princip which I am sure obtains in all systems of jurisprudence, Interest reipublicae ut sit finis litium must apply and support that condition. Now, I put that in English. I am sorry. "It is in the interests of the community that there should be an end of the legal proceedings."

My Lord, if one didn't apply the limit which English jurisprudence has applied, one would then call evidence to attack the credit of witnesses for th prosecution. The prosecution would then render a rebuttal and call evidence to attack the credit of each of these witnesses who had attacked the credit of the prosecution's witness and there would never be an end to legal proceedings at all. My Lord, on that point which is a general point -- and I don't mean t be academic -- it is a point of practical importance for preserving some dece limit to legal proceedings -- I should submit that this application should be refused. My Lord, I think that covers all the points except the question of the defendant Goering's application with which, my friend, Colonel Pokrovsky will deal.

COLONEL POKROVSKY: The defendant Goering applied for calling supplement witnesses in regard to the mass murder in the Katyn Forest and on the standpoint and the particular part played by the armed forces regarding it, and he wants to prove that German armed forces were not in any way concerned with this Hitler provocation on the part of the Hitlerites. The prosecution of th Soviet Union strenuously protests.

THE PRESIDENT: Colonel Pokrovsky, we have this matter fully in our mind as we have already had to consider it therefore, it isn't necessary for you t deal with it in detail, for I understand these are new witnesses who haven't before been applied for.

COLONEL POKROVSKY: I had in mind the fact that the new witnesses have b called and, previsely, I would like to inform the Tribunal about our point of view and that is as far as the calling of the new witnesses is concerned,

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without going into detail about the Katyn Forest murders. The Soviet prosecution, from the very beginning, considered Katyn Forest as a generally known fact and the Indictment already mentioned this. It is mentioned in the Indictment and we limited ourselves only to reading short excerpts about this incident and on account of this Tribunal, we realize that we deal with this episode merely as with an incident but if the question is raised and such is the question, which was mentioned by Sir David, that is, the fact that the Tribunal may be dubious about the credibility of vertain witnesses or certain documents -- then, once again, we would be forced to present new evidence in order to discredit the material presented by the defense again.

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In such a way, if the Tribunal considers it necessary to admit two new witnesses relative to the Katyn Forest shootings, then the Soviet Prosecution will find itself obligated to call about nine more new witnesses who were experts and specialists, and to present to the Tribunal new evidence which has been recently received by us, new documents.

Furthermore, we shall have to return to the question of reading into the record all of the documents of the Special Commission, excerpts from which were read before the Tribunal. We think that it will delay greatly the proceedings, and it will not be a matter of hours but days.

So far as we are concerned, there is no necessity of doing this, and I think that it should be denied since there is absolutely no basis or reason for it.

That is, my Lord, what I wanted to say in regard to the application on the part of the defendant Goering.

I would also like to add a few words to what Sir David said in regard to the application on the part of Dr. Seidl. I will not express all our motives. We certainly support Sir David fully, who considers that Dr. Seidl's applications should be denied. But I want to report to you that this morning I find a document being sent to you, your Honor, which expresses fully and in detail all our motives and considerations in regard to this, and this document is presented to the Tribunal Therefore, without taking your time, I find another way to inform the Tribunal about our position.

THE PRESIDENT: Now, it is not necessary, I think, to ask counsel for the defendant Schirach to address the Tribunal, because there is no objection to those two applications with reference to the witness Moezellich and the interrogatory of Kauffmann.

With reference to the Hess matter, the Tribunal will consider that. They are going to consider it as they said

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they would in their previous order.

With reference to the defendant Funk, there is no objection to the affidavit for Kallus, and so unless the counsel for Funk wants to address us upon it, we need not bother with that.

With reference to Streicher, there is an objection to Gessner as a witness, so perhaps counsel for Streicher had better say anything that he wishes to say.

(No response)

Well, the Tribunal will consider that, then.

As to Sauckel there has been no objection. As to Seyss-Inquart, an interrogatory -- there is no objection there.

As to the defendant Frick, Sir David suggested an interrogatory. It wasn't quite clear whether the application meant that. Is counsel for the defendant Frick here or not?

(No response). Well, we will consider that.

With reference to Goering, the Tribunal will consider the applications for the defendant Goering.

With reference to Hess and Frank, as to Gesevius' evidence Dr. Seidl, do you wish to say anything about that?

DR. SEIDL: Mr. President, the application regarding collecting of information was only made for that one purpose, to obtain evidence for the credibility of witness Gesevius. Afterwards I made an application for examination on the Secretary of War Patterson by means of a questionnaire, interrogatory, which would deal with the same subject.

Then there is an application for examining the chief of the OSS, General Donovan, also, by means of an interrogatory. I think that this new application has not yet reached the Tribunal.

This further application I have only made because the first named witness, Patterson, has only been Minister of War for a comparatively short period, and since it appeared suitable that additionally the chief of that organization should himself

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be asked questions as a witness.

With respect to these applications, I refer to my written statement in the application of the first of May of this year, which has been submitted as an Appensix 1, and I also refer to Appendix 2, which is a report of the Associated Press regarding this episode.

I should like to reply very briefly to Sir David Maxwell-Fyfe's statement.

In connection with the question of additional witnesses to deal with credibility of other witnesses, the Tribunal doesn't appear to be bound to any particular rules. Neither in the Charter for the International Military Tribunal nor in any other instructions are rules contained in that respect. In my opinion it is entirely and exclusively left to the free decision of the Tribunal whether under certain circumstances such additio means of evidence referring to credibility of a witness should b admitted or not.

In German criminal procedure such evidence is permissible without any doubt, but since the Tribunal in creating this procedure is not bound by any known procedure, I see no reason why any particular habits of procedure of the Anglo-American right should now be considered since the Charter neither considers the Anglo-American legislation or legal procedure, not the German legal procedure, and since this is a Tribunal and a procedure which is going entirely its own ways and since it is given complete freedom as to the decisions. That is all I wanted to say in that connection.

THE PRESIDENT: One moment, Dr. Seidl. Do the questions which you wish to put with reference to the witness Gesevius relate solely to credit?

DR. SEIDL: In my written application I have already said that as far as I am concerned, it isn't a question of whether under certain circumstances the witness Gesevius did commit an

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action which in accordance with the German law may be a crime. The questions I wanted to put were merely referring to the credibility of the witness before this very Tribunal.

THE PRESIDENT: That is what I thought.

Now, one other question I wanted to ask you. Are these pacts or agreements, which you say existed between the Soviet Republics and Germany -- are they published in print? Have all the documents which you wish to use been typewritten or mimeographed and circulated to the Tribunal?

DR. SEIDL: Mr. President, on the 13th of April of this year, six copies of those five documents were given to the General Secretary by me, and, over and above that, I have given a corresponding number of documents to the Prosecution. All these documents are typewritten or respectively they are multigraphed.

THE PRESIDENT: Very well.

DR. SEIDL: Perhaps, if I may, I should like to add one thing. That is that on some earlier occasion the Tribunal hav admitted an affidavit from Bmassador Gauss as evidence. That first affidavit is a summary of these secret agreements.

THE PRESIDENT: Yes, I know that.

DR. SEIDL: In my opinion, it seems that if one had the actual agreements one could refer to the agreements as such, and wouldn't have to satisfy oneself with a summary. If the Tribunal so desires, and considers it necessary, then I should of course be prepared at this stage, or at some later stage, to deal with the relevancy of these agreements, and draw the Tribunal's attention to it.

I have noted down eight points on the basis of which it appears that these agreements are relevant as evidence, and perhaps, if I may, I should like to point out --

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THE PRESIDENT: The Tribunal has already ordered that these documents should be submitted, and then will then consider them. That is what they propose to do; so it is not necessary to go into them in detail. We will consider the matter.

DR. SAUTER.

DR. SAUTER (Counsel for defendant Funk): Mr. President, on the occasion of the examination of Defendant Funk, a film was shown on the wall in this courtroom, and an application from witness Puhl has been read. Puhl was the vice-president of the Reichsbank. At that time, following an application of mine, the Tribunal decided that this witness, Emil Puhl, should be called as a witness to come here for examination.

I should like to ask that you amend your decision in one direction. I consider that it would be suitable that this witness Puhl should see the film which you saw on this wall a few days ago, and that he should see it so that he can state whether in fact the steel safes of the Reichsbank looked as they were shown in this film.

I should like to ask, therefore, Mr. President, that you order that this short film which we were shown twice the other day should also be shown to the witness Puhl before his examination. It is, of course, not necessary that this should be done during the session of the Tribunal; it can be done in the presence of the prosecutor and myself, outside this courtroom.

Apart from that, I have certain questions to put to witness Puhl, and for that it is necessary that he should first of all see this film. I was going to make this application today so that when the witness Puhl is examined, there should be no delay.

THE PRESIDENT: Does the witness Puhl know the vaults in Frankfurt which were photographed?

DR. SAUTER: Yes.

THE PRESIDENT: He was there, was he not?

DR. SAUTER: Yes; but I assume, Mr. President, that the witness Puhl, who was the acting vice-president, would know the steel safes in Frankfurt as well. Apart from that, I believe that these vaults in the various branches of the

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Reichsbank were all built after one pattern, and were in practive treated after that same system, or pattern. He will be able, also, to state whether that type of safe keeping as it was pictures in this film was, in fact, such as the Reichsbank would use when looking after deposits.

THE PRESIDENT: Has the prosecution anything to say about this?

MR. ALBRECHT: If your Honor please, I think as it is a document in this case, we would be very glad to show them to the witness before he is cromm-examined by Dr. Sauter.

THE PRESIDENT: Yes. And perhaps the most convenient way would be, as Dr. Sauter suggests, that he should be shown the film in some room in this court, not actually in this room, but in another room.

MR. ALBRECHT: Yes; we can do so in the presence of the prosecution.

THE PRESIDENT: Then you can arrange that between yourself and Dr. Sauter?

MR. ALBRECHT: Very well, sir.

DR. SAUTER: Thank you very much, indeed.

THE PRESIDENT: Dr. Sauter, has any time been arranged for the calling of Puhl?

DR. SAUTER: No; nothing as yet has been arranged. As far as I have heard, the witness is already here, and when he is to be examined is something I do not know. I shall leave that entirely to the prosecution.

THE PRESIDENT: What would be the most convenient thing?

SIR DAVID MAXWELL-FYFE: My Lord, Mr. Dalton suggest to me, at the close of the case of the defendant Doenitz.

THE PRESIDENT: Would that be convenient? I do not know. Wouldn't it be better to put it after the defendant Raeder, since they are rather connected cases?

SIR DAVID MAXWELL_FYFE: If the Tribunal would prefer that, we could make it after Raeder.

THE PRESIDENT: I do not know whether Dr. Kranzbuehler and Dr. Siemers would prefer that.

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: Perhaps you could arrange that with them.

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SIR DAVID MAXWELL-FYFE: Certainly, my lord.

THE PRESIDENT: That is to say, we would take Puhl's evidence as soon as convenient, either after the evidence on behalf of the defendant Doenitz or after the evidence on behalf of the defendant Raeder, whichever you prefer.

SIR DAVID MAXWELL-FYFE: If your Lordship prefer, we will do that.

DR. SAUTER: Very well; I agree.

DR. LATERNSER: Mr. President, I should like to inform the Tribunal that colleague Stahmer's applications for the defendant Goering for clarifying the Tribunal are interesting to me with reference to my client. The procedure of the applications represented by the Russian prosecutor indicated to me that this subject, too, is to be used to implicate the general staff and the OKW, or has been used for that purpose, although no evidence to the effect has been submitted, that the events took place, either by order or with the agreement of the General Staff and the OKW.

THE PRESIDENTL Does this not, perhaps, interest all the defendants?

DR. LATERNSER: Yes. But I should merely like to inform the Tribunal that I am interested in colleague Stahmer's applications, and that I am also asking you to allow them. We have agreed to share our task, and that is why the colleague Stahmer may have made the applications. And I merely wanted to inform the Tribunal of that arrangement.

I should also like to point out to you that some time ago when my colleague Melte was speaking on behalf of the defendant Keitel, and was forfeiting the examination of the witness Halder, I pointed out to the Tribunal that by this action, my privileges were being infringed, and that the witness Halder should have to be allowed for cross examination by the Russian prosecution.

At that time, it was suggested that witness Halder would appear to be examined, and the Tribunal was going to tell me in the near future what its decision would be now. Some time has passed, and I have not yet received such a decision. I merely wanted to point to that affair before this Tribunal.

THE PRESIDENT: Your witnesses have not been dealt with, have they? You have not applied for your witnesses yet? They have not been proferred? The matter has not been dealt with?

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DR. LATERNSER: Mr. President, the same understanding seems to appear again which occurred when some time ago I pointed out to you that when the witness Halder was cancelled, my rights were being infringed. The situation at the time was that the Russian prosecution was submitting an affidavit from General Halder, and that when the defense objected, which was done in my name, too, at the time, the Tribunal decided that witness Halder would appear, and would have to appear for examination here.

As a matter of fact, you see, I have the right to cross examine him. And that is why I have the impression that I ought to present the situation to the Tribunal.

THE PRESIDENT: But the convenient time is the question. You will have the opportunity to cross examine him. But the question is when. You want to cross examine him yourself on behalf of the High Command.

DR. LATERNSER: Yes.

THE PRESIDENT: We will consider that, Dr. Laternser.

The Tribunal will adjourn.

(An adjournment was taken until 1000 hours, Monday, 13 May 1946.)